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BEFORE THE ARIZONA CORPORATION

JIM IRVIN
COMMISSIONER - CHAIRMAN
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF)
SPEER VIRTUAL MEDIA, LTD. FOR A)
CERTIFICATE OF CONVENIENCE AND)
NECESSITY TO PROVIDE COMPETITIVE)
INTERLATA/INTRALATA RESOLD)
TELECOMMUNICATIONS SERVICES EXCEPT)
LOCAL EXCHANGE SERVICES.)

DOCKET NO. T-03381A-97-0285

DECISION NO.

61052

ORDER

Arizona Corporation Commission
DOCKETED

AUG 02 1998

DOCKETED BY

Open Meeting
August 4 and 5, 1998
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On June 12, 1997, Speer Virtual Media, Ltd. ("SVM" or "Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold telecommunications service in the State of Arizona.

2. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") were public service corporations subject to the jurisdiction of the Commission.

3. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101 through R14-2-1115 to regulate resellers.

4. SVM is a foreign limited partnership which has been qualified to conduct business in Arizona since 1997.

5. SVM is a switchless reseller which purchases telecommunications services from Sprint.

6. On June 1, 1998, the Commission's Utilities Division Staff ("Staff") filed a Staff Report.

7. The Staff Report stated that SVM provided unaudited financial statements for the year

ended December 1997, which indicated that it had a net loss of \$1.3 million. Staff indicated that it was unable to determine if SVM has retained earnings. Staff stated that Applicant does not appear to have adequate financial resources to make necessary plant additions or incur operating losses. Accordingly, Staff recommended that pursuant to A.A.C. R14-2-1105.D, Applicant maintain for a minimum of one year, an escrow account equal to the total amount of any prepayments, advances and deposits that Applicant may collect from its customers as a condition of certification. In the alternative, Applicant could file a letter stating that it does not currently charge customers any prepayments, advances or deposits, and does not intend to do so in the future. If at some future date Applicant desired to charge customers any prepayments, advances or deposits, it must file information with Staff that demonstrates Applicant's financial viability. Staff would review the information and provide Applicant its decision concerning financial viability within 30 days of receipt of the information. Staff believes that if Applicant experiences financial difficulty, there should be minimal impact to its customers. Customers are able to dial another reseller or facilities-based provider, and may permanently switch to another company without forfeiting any prepayment, advance or deposit.

8. The Staff Report stated that Applicant has no market power and the reasonableness of its rates would be evaluated in a market with numerous competitors.

9. Staff recommended that:

(a) Applicant's application for a Certificate should be approved subject to A.A.C. R14-2-1106.B;

(b) Applicant's intrastate toll service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

(c) Applicant's competitive services should be priced at the effective rates set forth in Applicant's tariffs and the maximum rates for these services should be the maximum rates proposed by Applicant in its tariffs. The minimum rates for Applicant's competitive services should be Applicant's long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109. Any future changes to the maximum rates in Applicant's tariffs must comply with A.A.C. R14-2-1110;

(d) Applicant should be required to comply with the Commission's rules and modify its tariffs to conform with these rules, if it is determined that there is a conflict between Applicant's tariffs and the Commission's rules; and

(e) The application may be approved without a hearing.

10. By Procedural Order dated June 5, 1998, the Commission set a deadline of July 6, 1998

for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting intervention as interested parties.

11. No exceptions were filed to the Staff Report, nor did any party request that a hearing be set, nor were any requests for intervention filed with Docket Control.

12. On June 30, 1998, Applicant filed a bond for utility users, to cover any prepayments, advances or deposits.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. As conditioned below, the provision of competitive interLATA/intraLATA reseller services in Arizona by Applicant is in the public interest.

5. With the conditions contained herein, Applicant is a fit and proper entity to receive a Certificate for providing competitive interLATA/intraLATA reseller services in Arizona.

6. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of Speer Virtual Media, Ltd. for a Certificate of Convenience and Necessity for authority to provide competitive interLATA/intraLATA resold telecommunications services except local exchange services shall be, and the same is, hereby granted.

IT IS FURTHER ORDERED that Speer Virtual Media, Ltd. shall comply with the Staff recommendations set forth in Findings of Fact No. 9.

1 IT IS FURTHER ORDERED that if after one year, Speer Virtual Media, Ltd. desires to terminate
2 its bond, it must file information with the Commission that demonstrates the company's financial
3 viability. Staff shall review the information and file its recommendation concerning financial viability
4 within thirty days of receipt of the financial information, for Commission approval.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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9 COMMISSIONER - CHAIRMAN

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12 COMMISSIONER

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15 COMMISSIONER

16 IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona
17 Corporation Commission, have hereunto set my hand and caused the official seal
18 of the Commission to be affixed at the Capitol, in the City of Phoenix, this
19 6th day of August, 1998.

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1 SERVICE LIST FOR: SPEER VIRTUAL MEDIA, LTD.

2 DOCKET NO.: T-03381A-97-0285

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